

REMARKS

I. Status of the Application

Claims 13-28 are all the claims currently pending in the present Application. By this Amendment, Applicants editorially amend claims 13 and 19. Applicants submit that the amended claims are supported throughout the specification and do not constitute new matter. Claim 14 has been canceled without prejudice.

By this Amendment, Applicants also add new claims 29-32. Ample support for the newly added claims can be found throughout the specification.

I. Brief Description of the Exemplary Embodiments

A problem in the art, as noted in Applicants' specification, is the formation of deposits and other impurities in the valves of the machines, leading to decreased accuracy and performance. (*See* ¶ [0004]). Additionally, cleaning these related art machines is difficult, complicated and often a time consuming task, as the valves for dispensing the fluids are located within the pump itself. (*See* ¶ [0004]).

Accordingly, Applicants invention is a novel approach to dispensing that allows for reliable and accurate dispensing of fluids, while eliminating the complexities and difficulties associated with the machine's cleaning. (*See* ¶¶ [0006]-[0008]). More specifically, the dispensing machine in accordance with exemplary embodiments of the present invention includes two one-way valves (claimed as the first valve and third valve) mounted in series in the output duct of the dispensing machine. (*See* ¶ [0009]).

The first valve is the delivery valve. The delivery valve is "mounted in the output duct, outside of the main body, in a position that is easily accessible to the operator." (*See* ¶ [0010]). The third valve, located inside the pump, is used as a stopcock for retaining fluid (for example

paint) during the cleaning or replacement of the first valve. (See ¶¶ [0010] and [0035]).

Accordingly, maintenance of the delivery valve can be performed without the need to dismantle the pump, and without the need to empty the pump of fluid, or to stop the flow of fluid into the pump. (See ¶ [0010]). Because the third valve is used as a stopcock for retaining fluid during cleaning in one embodiment, it is not necessary for the third valve to withstand high pressure. Accordingly, in one embodiment, the first one-way valve is formed to withstand higher pressure than the third valve.

I. Rejection under 35 U.S.C. § 102 in view of Poitras

Claims 13-18, 23, 24, 27, and 28 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Poitras et al. (U.S. Patent No. 3,952,918; hereinafter “Poitras”). Applicants respectfully disagree.

With respect to independent claim 13, Poitras fails to disclose, or even suggest, at least a first valve and a third valve, wherein the “first one-way valve located along the delivery duct and outside said pump” and “wherein **the first one-way valve is formed to withstand higher pressure than the third one-way valve.**” As explained above, in one embodiment, the third valve is used as a stopcock for retaining fluid during cleaning, and as such, it is not necessary for the third valve to withstand high pressure.

In contrast, no such relationship between valves exists in Poitras. Instead, Poitras is a simple bathroom soap pump. The operation of Poitras is explained below with reference to FIG. 1, which is also reproduced below.

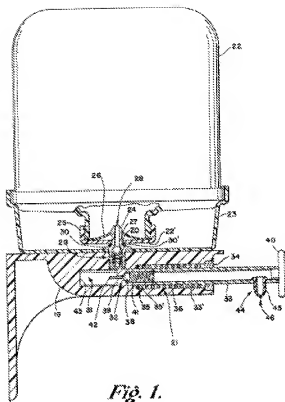


Fig. 1.

Specifically, the spring loaded valve 32 (alleged third valve) is only operated when pressure is applied to the handle 40 by the user. When pressure is applied, the spring loaded valve 32 is pushed backward toward the back wall of chamber 31, until the pin 42 touches the back wall of the chamber. At this point, the valve 32 can open. (Col. 3, ll. 23-35). With respect to the outlet valve 45, this is simply a rubber cap with a slit 46. Any flow of fluid through the piston 33 acts to open the outlet valve 45. (Col. 3, ll. 16-22). For at least this reason, claim 13 overcomes the cited art of record.

With regard to claims 14-18, 23, 24 and 27, these claims depend from independent claim 13. Accordingly, claims 14-18, 23, 24 and 27 are allowable at least by virtue of their dependency from claim 13. They are also allowable because of the additional features recited therein.

For example, with regard to claim 23, the cited art of record fails to disclose, or even suggest, that “said second valve is partially open in the rest position.”

The Examiner asserts that valve 29 mounted in duct 28 of Poitras discloses this recited feature. Applicants respectfully disagree.

As discussed in Poitras, “[m]ounted in the tube 24 is a spring loaded check valve 29 that closes the passage 28. The valve 29 only permits the passage of fluid if the pressure within the bottle 22 exceeds the pressure in a cylindrical chamber 31.” (Col. 2, ll. 56-61) (emphasis added).

In Poitras, as soap flows past valve 29 into chamber 31, pressure in chamber 31 equalizes with the pressure in the bottle 22. Once the pressure is equalized, valve 29 closes, as valve 29 only permits passage of the fluid if the pressure within bottle 22 exceeds the pressure in chamber 31. (Col. 2, ll. 56-61)

Assuming, *arguendo*, that valve 29 of Poitras corresponds to the second valve as recited in claim 1, Applicants submit that the valve 29 of Poitras is closed in a rest position, as discussed in column 2, lines 56-61 of Poitras. Poitras therefore does not teach or disclose that said second valve is partially open in the rest position, as recited by claim 23.

For at least this additional reason claim 23 is patentable over the cited art of record.

I. Rejection under 35 U.S.C. § 103 - Poitras in view of Zoll

Claims 19, 21, 22 and 25 stand rejected under 35 U.S.C. § 103(a) as allegedly anticipated by Poitras in view of Zoll (U.S. Patent No. 3,800,825; hereinafter “Zoll”). Applicants respectfully disagree.

With regard to claims 19, 21, 22 and 25, these claims depend from independent claim 13, and as such Applicants assert that 19, 21, 22 and 25 are patentable at least by virtue of their

dependency from claim 13. Additionally, Applicants have already demonstrated the deficient disclosure of Poitras as applied to independent claim 13. The Examiner relies on Zoll only for its alleged disclosure of a “knife-edge element.” Because Zoll cannot cure the deficient disclosure of Poitras, claims 19, 21, 22 and 25 should be allowable. These claims are also allowable because of the additional features recited therein.

For example, with respect to claim 25, the cited art of record does not disclose, or even suggest, at least a pump wherein **“each of said first one-way valve, second valve and third valve”** comprises the specific structure recited in claim 25. Here, each of the three valves is made up of the same elements, as recited in the claim.

In contrast, Poitras discloses that each valve has a specific, and different, structure to achieve the intended result. For example, valve 32 of Poitras is a spring loaded valve. Outlet valve is simply a cap, and not intended to stop the flow of liquid. Likewise, valve 29 is a spring loaded check valve, which only allows the flow of liquid when the pressure in the chamber 31 is lower than the pressure in the bottle 22. Replacing each of these valves (32, 45 and 29) with the valve recited in claim 25 would effectively destroy the invention of Poitras. It is well known that **“[i]f a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.”** *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984); MPEP § 2143.01-V. For at least this additional reason, Applicants respectfully request for the Examiner to withdraw the rejection.

I. Rejection under 35 U.S.C. § 103 - Poitras

Claim 26 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Poitras. Applicants respectfully disagree.

Initially, Applicants note that claim 26 depends from independent claim 13. Accordingly, claim 26 is allowable over the cited art of record at least by virtue of its dependency from independent claim 13. It is also allowable because of the additional features recited therein.

For example, with respect to claim 26, the cited art of record does not disclose, or even suggest, that “the pump comprise[s] a bellows pump.”

The Examiner alleges that substituting a bellows pump is “a design choice based upon the needs of the consumer that will be operating the pump.” (*See* Office Action, page 5). This is simply incorrect.

Poitras is directed to a specific purpose -- a manually operated pump for dispensing hand-soap. If a bellows pump was substituted for the pump of Poitras, the Poitras pump would no longer function as intended. This is improper. *See* MPEP 2143.02.

Likewise, it is unclear how the Examiner proposes to make such a combination. Clearly, the structure of the pump would need to change. But, which elements would need to be removed? And why would one of ordinary skill in the art remove them? None of these questions are addressed in the Office Action. The Examiner’s limited response plainly fails to meet the *prima facie* case required under 35 U.S.C. § 103.

I. Rejection under 35 U.S.C. § 103 - Zoll

Claim 20 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Zoll. Applicants respectfully disagree.

Initially, Applicants note that claim 20 depends from independent claim 13. Accordingly, claim 20 is allowable over the cited art of record at least by virtue of its

dependency from independent claim 13. It is also allowable because of the additional features recited therein.

Furthermore, the Examiner's rejection is confusing. As explained above, claim 20 depends from claim 13. Accordingly, claim 20 contains all of the features of claim 13. However, the Examiner relies on a single reference -- Zoll, in order to make this rejection. It is clear that Zoll does not teach any element of independent claim 13, and as such, cannot serve as the basis for rejection of claim 20. Furthermore, the Examiner does not even seem to rely on any feature of Zoll in order to reject the claim. This rejection severely impairs Applicants ability to address all of the issues in this case. The Examiner is respectfully requested to withdraw the rejection. Nevertheless, should the Examiner maintain the rejection, the next Office Action must be Non-Final, so as to give Applicants a chance to properly respond.

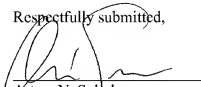
I. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

This Amendment is being filed via the USPTO Electronic Filing System (EFS).

Applicants herewith petition the Director of the USPTO to extend the time for reply to the above-identified Office Action for an appropriate length of time if necessary. Any fee due under 37 U.S.C. § 1.17(a) is being paid via the USPTO Electronic Filing System (EFS). The USPTO is also directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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